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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/881,965	05/16/1997	ANDREW J. KUZMA	42390.P1901R	3620

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06/21/2002

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EXAMINER

LEE, RICHARD J

ART UNIT

PAPER NUMBER

2613

DATE MAILED: 06/21/2002

250 23

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
08/881,965

Applicant(s)  
Kuzma

Examiner  
Richard Lee

Art Unit  
2613



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Apr 15, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 22-33, 35-39, and 41-49 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 is/are allowed.
- 6) ☒ Claim(s) 22-33, 35-39, and 41-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 22-28, 31, 32, 35, 38, 39, and 41-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murakami et al of record (5,010,401) in view of Barberis et al of record (4,320,500) and Parrish et al of record (5,117,35) for the same reasons as set forth in paragraph (3) of the last Office Action (see Paper no. 21).

3. Claims 33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Murakami et al, Barberis et al, and Parrish et al as applied to claims 22-28, 31, 32, 35, 38, 39, and 41-49 in the above paragraph (2), and further in view of Jeong of record (5,497,153) for the same reasons as set forth in paragraph (4) of the last Office Action (see Paper no. 21).

4. Claims 29, 30, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Murakami et al, Barberis et al, and Parrish et al as applied to claims 22-28, 31, 32, 35, 38, 39, and 41-49 in the above paragraph (2), and further in view of Khalil of record (5,343,465) for the same reasons as set forth in paragraph (5) of the last Office Action (see Paper no. 21).

5. Claim 1 is allowed.

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6. Regarding the applicant's arguments at pages 12-16 of the amendment filed April 15, 2002 concerning in general that "... Applicant respectfully disagrees with the Examiner's characterization of Barberis. As noted above, Barberis discloses a system for routing data from a transmitting buffer to a terminal node according to the delay that is computed for various paths to the terminal node ... In Barberis, each of the buffers B1-Bn is predefined based on the number of terminal nodes in the system ... Kuzma creates dynamically created buffers. This is in contrast to Barberis, where the buffers B1-Bn are all predefined based upon the number of terminal nodes in the system ... Thirdly, in Kuzma, buffers are dynamically created according to one or more characteristics of a communications channel to be used for transmitting the data ... In summary, Barberis does not teach, as suggested by the Examiner, dynamically created buffers that are created and configured based upon one or more characteristics of a communication channel to be used for transmitting the data ... In Barberis, data is transmitted along a selected path, whereas in Kuzma, data is transmitted from a selected output buffer ... Parish does not teach, suggest, or provide the motivation for modifying its disclosure of configurable memories to create dynamically configurable output buffers that are based upon characteristics of a communications channel ...", the Examiner wants to point out firstly that: One cannot show non-obviousness by attacking references individually where, as here the rejections are based on combination of references. In re Keller, 208 USPQ 871 (CCPA 1981). Though Barberis et al does not teach that the buffers B1-Bn are dynamically created output buffers, Parish nevertheless shows such general use of dynamically created buffers that may obviously be provided for the buffering system of

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Barberis et al and Murakami et al thereby providing substantially the same if not the same plurality of dynamically created output buffers coupled to the compression circuitry for storing the compressed data, each dynamically created output buffer being created and configured based upon one or more characteristics of a communication channel to be used for transmitting the encoded real time information over a network, the network interface determining the selected output buffer, wherein the selected output buffer accommodates the one or more characteristics of the data communications channel better than compressed data from at least another buffer/all other buffers of the plurality of output buffers (i.e., one of buffers B1-Bn of Barberis et al is selected to minimize the total delay, thereby providing the selected output buffer which accommodates the one or more characteristics of the data channel better than compressed data as provided by Murakami et al from at least another buffer/all other buffers of the plurality of buffers, see column 4, lines 20-63 and Figure 1B of Barberis et al) as claimed. And though the data of Barberis et al may be transmitted along a selected path, it is submitted that the selected path is nevertheless a selected output buffer such as one of B1-Bn (see column 4, lines 20-63 of Barberis et al), thereby providing substantially the same if not the same data that is being transmitted from a selected output buffer as claimed. For the above reasons, it is further submitted that the claimed invention is rendered obvious in view of the combination of Murakami et al, Barberis et al, and Parrish et al.

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Regarding the applicant's arguments at pages 16-18 of the amendment filed April 15, 2002 concerning the rejection of the dependent claims, the Examiner wants to point out that such arguments have been addressed in the above.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. **Any response to this final action should be mailed to:**

**Box AF**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

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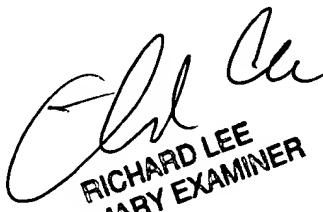
**or faxed to:**

(703) 872-9314, (for formal communications; please mark "EXPEDITED  
PROCEDURE") (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA., Sixth Floor (Receptionist).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Lee whose telephone number is (703) 308-6612. The Examiner can normally be reached on Monday to Friday from 8:00 a.m. to 5:30 p.m, with alternate Fridays off.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group customer service whose telephone number is (703) 306-0377.

  
RICHARD LEE  
PRIMARY EXAMINER

Richard Lee/rl

6/18/02

